

REMARKS

Reconsideration of the present application is respectfully requested. Claims 1 and 3 have been amended. Claims 1-7 are presently pending, with claims 1 and 3 being independent.

In the Office Action dated June 17, 2004, claims 3-6 are objected to as being dependent upon a rejected base claim but indicated as allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. As suggested in the Action, claim 3 has been rewritten in independent form and should therefore be in condition for allowance. Amended claims 4-6 depend from claim 3. Accordingly, dependent claims 4-6 should also be in condition for allowance.

In the pending Action, claims 1, 2, and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,067,639 to Maguire et al. (“the Maguire ‘639 patent”). Applicant respectfully submits that the present invention is not shown or suggested by the prior art references of record.

Amended claim 1 recites an apparatus for storing and transferring fluid to a receptacle including, among other things, a container including an internal chamber and a neck which allows the chamber to communicate with the atmosphere. The neck includes an internal circumferential container sealing surface. The apparatus further includes a spout assembly that is removably coupled to the neck. The spout assembly includes a fluid conduit. The conduit has a longitudinal conduit axis defined by a first end proximate the neck and a second end distal to the neck. The conduit includes an integrally formed, external circumferential sealing surface, which defines an obtuse angle relative to the conduit axis. The sealing surface slidably engages the container sealing surface. The structure recited in claim 1 enables an apparatus for storing and transferring fluid that provides a

resilient sealing mechanism. An advantage of the resilient sealing mechanism is that the surfaces resist fracture due to continued tightening of the seal. This advantage is obtained by having an external circumferential sealing surface that slides relative to the internal container sealing surface after the surfaces create a seal.

With respect to the prior art references of record, the Maguire '639 patent discloses a pouring spout which is mated to containers "to hold antifreeze, oil, brake fluid. . . ." (Col. 3, L 37) In the embodiment of FIG. 5, the lip 208 includes a flat surface 505, an angled edge 504 and a pair of arcuate surfaces 501 and 502 joined by depression 503. In particular, the Maguire '639 patent also recites:

The other surface of the lip 208 includes a pair of arcuate surfaces 501 and 502 joined together by a depression 503. This edge or lip arrangement permits the arcuate surface of the edge 208 to readily accommodate and be separately compressed by different sizes or configurations of containers. . . .

* * *

[S]ome containers on the market have a relatively straight or flat surface at the outer edge of the threaded neck while some containers have a relatively bevelled or angled surface at the outer edge surface. These container end surfaces require different types of receiving surfaces in order to form a leakproof seal. By using the 'double-arch' surfaces 501 and 502, either of the kinds of bottles or containers noted above can be utilized with the spout of the instant invention.

(Col. 5, L 59 - Col. 6, L 6) (emphasis added).

Moreover, the angled edge 504 is not a sealing surface, but rather the edge "permits the end of the spout body 200 to be easily and readily inserted into the opening 304 in the cap 300." (Col 5, L 54-56). Again, the surfaces 501 and 502 provide sealing engagement with the container, not the surface 504.

Therefore, the Maguire '639 patent fails to show or suggest the use of the structure recited in amended claim 1. For example, the Maguire '639 patent fails to show or suggest the use

of a conduit sealing surface that is obtuse relative to the center longitudinal conduit axis and that slidably engages the obtuse sealing surface of the neck to provide sealing engagement therebetween, as recited in amended claim 1. Instead, the Maguire '639 patent discloses an angled edge 504 that is provided simply to facilitate interconnection of the spout 200 and cap 300. That is to say, the Maguire '639 patent does not show or suggest the angled edge 504 as slidably engaging an obtuse surface of the container to provide a seal therebetween. Furthermore, Applicant respectfully submits that such a hypothetical arrangement is not possible because the threads 302 of the cap 300 will prevent the container from sealingly contacting the edge 504. The Maguire '639 patent also fails to show or suggest the arcuate surfaces 501 and 502 as slidably engaging an obtuse surface of the container. In fact, the surfaces 501 and 502 are provided to enhance the compressibility of the edge 208, thereby accommodating container edges of various sizes and shapes.

In view of the foregoing, Applicant submits that amended independent claim 1 recites structure not shown or suggested in the prior art references of record. Claims 2 and 7 depend directly from claim 1. These dependent claims recite additional features of the invention not shown or suggested by the prior art.

Therefore, the present application should now be in condition for allowance and such allowance is respectfully requested. Should the Examiner have any questions, please contact the undersigned at (800) 445-3460.

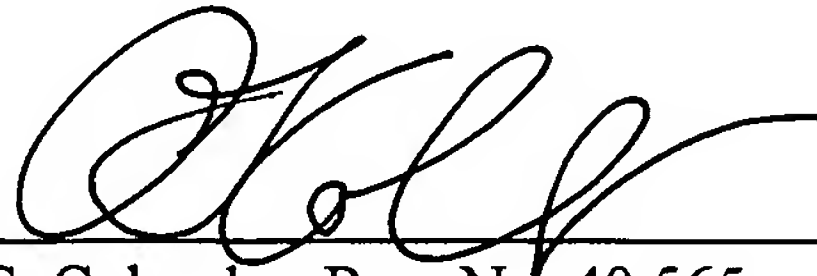
A 1-month Petition for Extension of Time accompanies this Amendment, along with authorization to charge \$55.00 to the undersigned's Deposit Account No. 19-0522 for the petition

fee set forth in 37 C.F.R. § 1.17. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to said Deposit Account.

Respectfully submitted,

HOVEY WILLIAMS LLP

By:

A handwritten signature in black ink, appearing to read 'A. Colombo', is written over a horizontal line.

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